



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

**COMMISSION ADJUDICATORY
DOCKET NO. 580**

DOCKET NO.

**IN THE MATTER
OF
ROBERT MUZIK**

DISPOSITION AGREEMENT

The State Ethics Commission ("Commission") and Robert Muzik ("Muzik") enter into this Disposition Agreement ("Agreement") pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On March 12, 1997, the Commission initiated, pursuant to G.L. c. 268B, §4(j), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Muzik. The Commission has concluded its inquiry and, on August 5, 1997, found reasonable cause to believe that Muzik violated G.L. c. 268A, §3.

The Commission and Muzik now agree to the following findings of fact and conclusions of law:

1. Muzik was, during the time relevant, a limousine company owner who regularly used the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority's ("Steamship Authority") ferries to transport his limousine and his clients between Woods Hole and Martha's Vineyard.

2. The responsibility for loading vehicles onto ferries rests with the Steamship Authority terminal agent or assistant terminal agent on duty. That person, following United States Coast Guard regulations, determines the vehicle load configuration for a particular departure. Thus, the number of vehicles loaded onto a given ferry fluctuates depending on the size and weight of the vehicles, such as tractor-trailers, trucks, construction vehicles, buses, and large and small passenger vehicles. In most cases, the terminal agent or assistant terminal agent on duty can adjust the configuration to accommodate additional vehicles.

3. Ferry use greatly increases during the summer months. Customers with vehicles can secure reservations in advance for a specific departure date and time. Reservations for the summer usually sell out by mid-February. The number of reservations accepted per departure is limited due to uncertainty regarding the number of vehicles that will actually be allowed onto the ferry (due to vehicle size and weight differences). At the time relevant herein, passengers (with vehicles) without reservations during peak usage periods were allowed passage on a standby, first come-first-served basis, after passengers with reservations and those with special circumstances.^{1/} During peak ferry usage, it was not uncommon for standby passengers to have to wait many hours to secure passage.^{2/}

4. During peak usage periods, Muzik would attempt to secure return trip reservations at the Woods Hole terminal by calling one of the assistant terminal agents directly, as opposed to calling the Steamship Authority reservations number. On at least some occasions, he could not secure a return trip reservation for his limousine. If a standby list was in effect, Muzik would either have to persuade the terminal agent or assistant terminal agent on duty to allow his limousine on the ferry as a special circumstance, or he would have to send his client on the ferry as a walk-on passenger while Muzik waited with the vehicle as a standby passenger, in which case Muzik would arrange for alternate transportation for the client when the ferry docked at Martha's Vineyard.

5. In June 1993, Muzik gave a \$200.00 gift certificate to a Woods Hole assistant terminal agent and his wife. When Muzik did so, the assistant terminal agent had performed and was expected to continue to perform official acts regarding passage for steamship passengers and vehicles, including Muzik, his clients and limousine. Muzik had no private, social or business relationship with either the assistant terminal agent or his spouse.

6. The assistant terminal agent turned the gift certificate over to the Steamship Authority's general counsel, who returned the gift to Muzik with a letter warning Muzik that the gift violated the conflict of interest law.

7. In or about December 1995, Muzik sent another Woods Hole assistant terminal agent a Christmas card containing a \$50.00 bill. When Muzik did so, the assistant terminal agent had performed, and was expected to continue to perform official acts regarding passage for steamship passengers, including Muzik, his clients and limousine. Muzik had no private, business or social relationship with this assistant terminal agent. Upon receiving this gratuity, the assistant terminal agent immediately turned it over to the Authority's general counsel.

8. Section 3(a) of G.L. c. 268A prohibits, otherwise than provided by law, the giving or offering of anything of substantial value to any public official for or because of any official act or acts performed or to be performed by such employee^{3/ 4/}

9. The \$200.00 gift certificate and the \$50.00 cash gratuity were items of substantial value.

10. The Steamship Authority assistant terminal agents are public employees.

11. Muzik gave the \$200.00 gift certificate and the \$50.00 cash gratuity to these public employees for or because of an official act or acts performed or to be performed by those public employees. In doing so, Muzik violated §3(a).

In view of the foregoing violations of G.L. c. 268A by Muzik, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Muzik:

(1) that Muzik pay to the Commission the sum of five hundred dollars (\$500.00) as a civil penalty for violating G.L. c. 268A, §3(a); and

(2) that Muzik waive all rights to contest the findings of fact, conclusions of law and terms and conditions in this Agreement in this or any other related administrative or judicial proceeding to which the Commission is or may be a party.

DATE: January 20, 1999

1/Special circumstances usually involve medical circumstances or family emergencies.

2/The standby procedure was eliminated in 1997.

3/The Commission considers anything with a value of \$50.00 or more to constitute “substantial value” for §3 purpose. See, e.g., *In re Scaccia*, 1996 SEC 838.

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